

**Introduced by Senator Liu
(Coauthor: Senator Yee)**

February 10, 2009

An act to amend Section 1712.1 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 134, as introduced, Liu. Juveniles: communications with children.

Existing law provides that a ward confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, is encouraged to communicate with family members, clergy, and others, and to participate in programs that will facilitate his or her education, rehabilitation, and accountability to victims, and that may help the ward become a law-abiding and productive member of society.

This bill would, if the ward has a child, authorize the ward to communicate, both over the phone and in writing, with specified persons, including the ward's child, in order to aid in the attachment and involvement of the ward in his or her child's life, to increase the ward's ability to parent the child, and to reduce the detrimental impact on the ward's child as a result of having an incarcerated parent.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Due to a lack of concrete policies that protect the rights of
- 4 adolescents to parent their children, many incarcerated adolescent

1 parents face long periods of time where they have little or no
2 contact with their children.

3 (b) A national survey completed in 2003 found that, of
4 incarcerated girls, 11 percent 15 years of age and under, 10 percent
5 16 years of age, 8 percent 17 years of age, and 13 percent 18 years
6 of age, were pregnant.

7 (c) The same survey found that, of incarcerated boys, 13 percent
8 15 years of age, 15 percent 16 years of age, 17 percent 17 years
9 of age, and 21 percent 18 years of age, were parents.

10 (d) The trauma of an arrest event and the resulting parent-child
11 separation can have profound effects on the child's development,
12 lasting well into adulthood.

13 (e) The results of parental incarceration on the child may include
14 difficulty sleeping, poor school performance, truancy, use of
15 alcohol or drugs, delinquency, and an increased likelihood of
16 becoming an inmate later in life; thus perpetuating intergenerational
17 incarceration.

18 (f) Communication improves the parent-child bond, which is
19 critical for child development. It may also reduce the child's
20 feelings of loneliness, fear, sadness, anxiety, and emotional
21 withdrawal.

22 (g) Programs created to promote positive contact between
23 incarcerated parents and their children have been shown to decrease
24 the negative impact of the parent's imprisonment on the child.

25 (h) Empirical studies have found that increased contact between
26 inmates and their families can contribute to the reintegration of
27 the inmates into the community after release. Successful
28 reintegration can reduce recidivism.

29 (i) Encouraging communication between incarcerated
30 adolescents and their children will benefit the state by contributing
31 to decreased recidivism rates among incarcerated adolescent
32 parents, decreasing the likelihood that their children will one day
33 be involved with the criminal justice system, and allowing for
34 better reintegration of incarcerated adolescents into their families
35 and communities upon their release.

36 (j) It is imperative to intervene into this cycle of incarceration,
37 and this act targets the children that are most at risk for later
38 involvement with the criminal justice system — the children of
39 incarcerated adolescent parents.

SEC. 2. Section 1712.1 of the Welfare and Institutions Code is amended to read:

1712.1. (a) A ward confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall be encouraged to communicate with family members, clergy, and others, and to participate in programs that will facilitate his or her education, rehabilitation, and accountability to victims, and that may help the ward become a law-abiding and productive member of society. If the division or a facility requires a ward to provide a list of allowed visitors, calls, or correspondents, that list shall be transferable from facility to facility, so that the transfer of the ward does not unduly interrupt family and community communication.

(b) *If the ward has a child, the ward may communicate, both over the phone and in writing, with all of the following persons in order to aid in the attachment and involvement of the ward in his or her child's life, to increase the ward's ability to parent the child, and to reduce the detrimental impact on the ward's child as a result of having an incarcerated parent:*

(1) *The ward's child.*

(2) *The other parent of the child.*

(3) *Any caregiver, social worker, teacher, or physician of the child.*

(4) *Any other person involved with the upbringing and caretaking of the ward's child.*

~~(b)~~

(c) A ward shall be allowed a minimum of four telephone calls to his or her family per month. A restriction or reduction of the minimum amount of telephone calls allowed to a ward shall not be imposed as a disciplinary measure. If calls conflict with institutional operations, supervision, or security, telephone usage may be temporarily restricted to the extent reasonably necessary for the continued operation and security of the facility. When speaking by telephone with a family member, clergy, or counsel, a ward may use his or her native language or the native language of the person to whom he or she is speaking.

~~(e)~~

(d) (1) If a ward's visitation rights are suspended, division or facility staff shall be prepared to inform one or more persons on

1 the list of those persons allowed to visit the ward, if any of those
2 persons should call to ask.

3 (2) The division or facility shall maintain a toll-free telephone
4 number that families and others may call to confirm visiting times,
5 and to provide timely updates on interruptions and rescheduling
6 of visiting days, times, and conditions.

7 (3) (A) The division shall encourage correspondence with
8 family or clergy by providing blank paper, envelopes, pencils, and
9 postage. Materials shall be provided in a manner that protects
10 institutional and public safety.

11 (B) When corresponding with a family member, clergy, or
12 counsel in writing, the ward may use his or her native language or
13 the native language of the person to whom he or she is writing.

14 (C) Blank paper, envelopes, and pencils shall not be deemed
15 contraband nor seized except in cases where the staff determines
16 that these items would likely be used to cause bodily harm, injury,
17 or death to the ward or other persons, or, based on specific history
18 of property damage by the individual ward, would likely be used
19 to cause destruction of state property. If the staff asserts that it is
20 necessary to seize materials normally used for correspondence,
21 the reasons for the seizure shall be entered in writing in the ward's
22 file or records.